

**Staff
Summary
Report**



**To: Mayor & City Council
Through: City Manager**

**Agenda Item Number:
Meeting Date: August 1, 2002**

SUBJECT: INTERGOVERNMENTAL AGREEMENT AMENDMENT NO. 2 WITH THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY (RPTA) FOR RAIL PROJECT PLANNING AND DESIGN

PREPARED BY: MARY O'CONNOR, DEPUTY PUBLIC WORKS MANAGER (350-8819)

REVIEWED BY: GLENN KEPHART, PUBLIC WORKS MANAGER (350-8205)

BRIEF: Authorize the Mayor to sign intergovernmental agreement amendment number 2 with the RPTA for rail project planning and design.

COMMENTS: PUBLIC TRANSIT (1106) Authorize the Mayor to sign intergovernmental agreement amendment number 2 with the RPTA for rail project planning and design, for a total cost not to exceed \$1,364,006.

Document Name: (20020801pwmoc) Supporting Documents: Yes

SUMMARY: In fall 1998, the Mayor and Council approved a five year intergovernmental agreement with the RPTA for preliminary engineering, environmental impact statement, and related services. The original contract amount is not to exceed \$1,000,000.

In May 2001, the Tempe City Council approved amending the Tempe RPTA intergovernmental agreement in the amount of \$2, 014,667 for the continuation of rail planning effort.

For FY 01-02, the Tempe/RPTA intergovernmental agreement amendment includes an additional payment of \$1,364,006 for completion of the preliminary engineering, construction design specifications, and environmental impact statement and analysis required. These costs will be included in the request for reimbursement from federal transportation grants. Tempe's pro-rata share of project expenses of 28.58%. Similar amendments have been approved by the cities of Phoenix and Mesa. This amendment concludes at June 30, 2002 or upon completion of the tasks describe above. The amendment has been reviewed by the City Attorney's office.

FISCAL NOTE: Costs for the rail project have been budgeted in the six year transit capital improvement program budget, including FY 2001-02.

RECOMMENDATION: That the City Council authorize the Mayor to sign an intergovernmental agreement amendment with the RPTA for rail project planning and design.

Approved by:

Glenn Kephart
Public Works Manager

**C98 – 214A
AMENDMENT NO. 2**

TO

AGREEMENT NO. C98-214

THIS AMENDMENT NO. 2 to Agreement No. C98-214 is made and entered into this _____ day of _____, 2002 by and between the Regional Public Transportation Authority, a public agency duly organized and existing under the laws of the State of Arizona (hereinafter referred to as "RPTA") and the City of Tempe, a municipal corporation duly organized and existing under the laws of the State of Arizona (hereinafter referred to as "CITY").

WHEREAS, on or about September 1, 1998, the parties did enter into Agreement No. C98-214 (hereinafter sometimes referred to as the "Principal Agreement") for the providing of Preliminary Engineering, Construction Design Specifications, and Environmental Impact Statement and Analyses; and,

WHEREAS, on or about May 31, 2001, the parties did enter into Amendment No. 1 of the Principal Agreement (hereinafter sometimes referred to as the "First Amended Principal Agreement") for the providing of Preliminary Engineering, Construction Design Specifications, and Environmental Impact Statement and Analyses; and,

WHEREAS, the parties wish to further amend the provisions of the First Amended Principal Agreement to increase CITY's contribution by an additional ONE MILLION THREE HUNDRED SIXTY FOUR THOUSAND SIX (\$1,364,006) DOLLARS for the purpose of funding completion of the Preliminary Engineering, Construction Design Specifications, and Environmental Impact Statement and Analyses required

hereunder; NOW, THEREFORE, IT IS HEREBY AGREED, by and between the parties,
as follows:

SECTION 1. That Section 4 of the First Amended Principal Agreement (pertaining to CITY Responsibilities) be, and the same is hereby, amended to read, in its entirety, as follows:

SECTION 4. City Responsibilities. CITY shall pay RPTA in accordance with Second Amended Exhibit "B" for it's pro rata share of services provided hereunder.

- A. The pro rata share of the cities of Phoenix, Tempe and Mesa (hereinafter sometimes referred to as the "Participating Cities") for the cost of the work performed under this Amendment and the First Amended Principal Agreement, is:

Phoenix	65.82%
Tempe	28.58%
Mesa	5.60%

- B. CITY payments to the RPTA for the additional sum of \$1,364,006 contemplated in Second Amended Exhibit "B" of this document, shall be made within 30 days after invoice on the following schedule:

50% (\$ 682,003.00) upon the execution of this amendment

25% (\$341,001.50) at the beginning of the 3rd quarter of FY 2002

25% (\$341,001.50) at the beginning of the 4th quarter of FY 2002

- C. Without further action taken by Tempe City Council, CITY'S contribution under this Amendment and the First Amended Principal Agreement is limited to \$4,378,673, or its pro-rata of the actual costs incurred by the RPTA, whichever is less.
- D. Funds advanced to RPTA by CITY for the Light Rail Project pursuant to this Agreement ("CITY LRT Funds") shall be maintained by RPTA and separately accounted for. All CITY LRT Funds shall be invested by RPTA in the Arizona State Treasurer's Local Government Investment Pool (LGIP) until funds are needed to pay current project expenses. Interest will be applied monthly to the CITY LRT Funds based on the average daily cash balance during the month. The interest rate applied will be the LGIP current yield for the applicable month. Monthly activity statements will be prepared by RPTA and forwarded to the CITY for review on or before the 22nd of the month for the prior month. These statements will indicate dates and amounts of all payments into the CITY LRT Fund and expenditures charged to the CITY LRT Fund. The

statements will also indicate the average daily account balance, the interest rate applied, and the resulting interest earnings or expense added to the account balance. At the conclusion of RPTA's participation in the project, the portion of any cash balance applicable to CITY will be refunded to CITY.

- E. The payment schedule set forth in Paragraphs "A" and "B", above, does not assume availability of FTA or other Federal grant funds in a manner timely to reimburse Consultant(s) expenses necessary to complete the work required hereunder. Should FTA or other grant funding be delayed or denied, or should cash deposits from the CITY, other Participating Cities, and the FTA be inadequate to pay the Consultant(s) under the terms of the Consulting Agreement(s), CITY shall (notwithstanding the schedule set forth above) pay RPTA, within 30 days after receipt of invoice, its pro rata share of all costs required to pay Consultant(s) under the terms and conditions of the Consulting Agreements(s) and otherwise proceed as contemplated by this Agreement until RPTA receives Federal or other grant reimbursements to pay the Consultant(s) billings. Any obligations payable to the Consultant(s) under the Consultant Agreement(s) shall be payable by the CITY, based on the CITY'S pro rata share of such obligations provided, however, that CITY'S pro rata share shall not exceed the sum of \$4,378,673.
- F. In the event any Consulting Agreement is terminated or postponed and obligations payable to the Consultant incurred, then (notwithstanding any other provisions hereof) RPTA, the CITY and other Participating Cities shall promptly meet to negotiate the sharing of the cost to pay such obligations.
- G RPTA will prepare a Monthly Progress Report of Project Status and Project Cost. CITY shall receive said Monthly Progress Reports, which will be subject to joint review each quarter by RPTA and the Participating Cities.
- H. Plans, specifications, and other documents shall be prepared by the RPTA's consultants and shall be subject to review, comment and acceptance in writing by CITY. Such review, comment and acceptance shall not be unreasonably delayed or withheld.
- I. CITY'S cooperation during project development shall consist primarily of, but not be limited to; evaluating designs prepared by RPTA's engineering consultants; furnishing information on record and reviewing plans, specifications, and calculations prepared by the RPTA's consultants; land acquisition; and, coordination of utility relocations in accordance with existing franchise agreements and negotiating additional agreements as may be required for this project. The CITY shall not be reimbursed by the RPTA for costs

incurred for design review for the Light Rail Project. CITY costs incurred for services rendered under this paragraph may count as in-kind match and as a portion of CITY pro rata share of matching funds provided the amount to be used as in-kind match is approved in advance by RPTA in order to assure sufficient funding for all project costs.

- J. The CITY shall cooperate with the RPTA in enforcing its utility franchise agreements with private utilities for relocation, modification or reconstruction required as part of the Light Rail Project.

SECTION 2. That Exhibit "B" to the Principal Agreement and Amended Exhibit "B" to the First Amended Principal Agreement be, and the same are hereby, amended in their entirety by Second Amended Exhibit "B", attached hereto and by this reference incorporated herein.

SECTION 3. That all of the rest, residue and remainder of the First Amended Principal Agreement not hereinbefore specifically amended shall remain in full force and effect.

SECTION 4. That the amendments set forth herein shall be effective on and after July 1, 2001 and shall conclude June 30, 2002 or at the end of preliminary engineering, which ever is later.

SECOND AMENDED EXHIBIT "B"

ESTIMATED COST OF SERVICES AND ALLOCATION OF COSTS

The following estimated cost of services and allocation of costs shall be in effect during the term of this Agreement. CITY shall pay RPTA in accordance with the provisions of Section 4 of this Agreement. RPTA acknowledges and agrees that funding from CITY under the terms of this Agreement shall be used for no purpose other than the work described in the Scope of Work Section of this Agreement. All sums paid by CITY to RPTA under this Agreement shall be segregated in the accounting records of RPTA.

ESTIMATED COST OF SERVICE

Services shall be provided pursuant to the terms of the Consultant Agreements.

The parties recognize that the Light Rail Transit (LRT) work scope is part of a larger effort that involves the cities of Tempe, Mesa and Phoenix. Listed below is the total estimated initial contract cost of RPTA contracts for Consultant services under this Agreement.

EXPECTED PROJECT COSTS (for PE/FEIS contract term only)

Program Management Consultant	\$12,358,966
	\$28,130,553
General Engineering Consultant	\$7,033,785
RPTA Expenses*	<u>\$47,523,304</u>
Total	<u><u>\$47,523,304</u></u>

*Includes Maricopa Association of Governments transportation modeling fees; office furnishings, equipment and rent; and public involvement, printing, supplies, phones, postage, and other expenses.

EXPECTED FUNDING SOURCES

FTA Section 5309	\$23,761,652
FHWA – CMAQ	\$ 8,442,018
Local	<u>\$15,319,634</u>
Total	<u><u>\$47,523,304</u></u>

ALLOCATION OF LOCAL COSTS

	Project Participation Through 6/30/01	FY 2002 Amendment	Estimated Project Participation Through 6/30/02	FY 2003 Project Participation	Total IGA's
Phoenix	\$ 6,200,890	\$ 3,882,171	\$ 10,083,061		\$ 10,083,061
Tempe	3,014,667	1,364,006	4,378,673		4,378,673
Mesa	857,900	-	857,900	\$242,100	1,100,000
Total	\$10,073,457	\$5,246,177	\$15,319,634	\$242,100	\$ 15,561,734

RPTA shall apply for and account for federal and state grant reimbursements. Funds supplied by CITY under this Agreement are estimated to pay for 9.2 percent of the total EXPECTED PROJECT COSTS. Federal grant reimbursements and other Participating Cities are estimated to pay for the remainder. RPTA does not guarantee the timeliness or availability of federal or other financial assistance related to this project.

---- End of Exhibit ----